IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 10TH JULY 2006 / 19TH ASHADHA,1928

TRC.No. 68 of 2002()

PETITIONER: ASSESSEE.

M/S. EMPEES AUTO FUELS, MOKERI, PANOOR,
KANNUR.

BY ADV. SRI.T.M.SREEDHARAN

RESPONDENTS: REVENUE.

STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. GEORGEKUTTY MATHEW.

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD
ON 10/07/2006, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

ORDER ON C.M.P. 1204 OF 2002 IN T.R.C. 68 OF 2002.

DISMISSED.

10.7.2006. SD/- C.N.RAMACHANDRAN NAIR, JUDGE.

SD/- K.M. JOSEPH, JUDGE.

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

- -

T.R.C. No. 68 OF 2002

- -

Dated this the 10th day of July, 2006.

JUDGMENT

C.N.Ramachandran Nair, J.

Heard counsel for the petitioner and the learned Government Pleader.

2. The question raised is whether rejection of books of accounts and addition for unaccounted sales and for omission and suppression confirmed by the Tribunal is justified.

3. Petitioner is a dealer in petroleum products. Two inspections were conducted during the same financial year and on both occasions variations were noticed. In the first inspection the variation noticed was short, while in the other inspection variation in stock was significant. It was also found that at the time of the inspections books of accounts were not available in the petrol bunk. In such circumstances, and in view of the variation in the physical stock found on inspections, the rejection of the books of accounts and addition to the turn over are perfectly justified. It is seen that addition ordered by

the Tribunal is 5% of the total turn over. Counsel for the petitioner contended that the petitioner is doing second sale in petroleum products purchased from public sector company and so much so, the entire turn over is exempted turn over and the mere fact that there is stock variation noticed, which according to him is also not correct, does not justify the addition based on total turn over. If the petitioner is entitled to exemption on second sale, we see no reason why the petitioner did not maintain proper books of accounts and proper records.

However we are of the view that the addition based on the total turn over is bit high. We therefore reduce the addition to 2% as against 5%. T.R.C is allowed to the above extent.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

sb

C.N.Ramachandran Nair & K.M.Joseph, JJ.

- - - -